



A-28-01

DAE/1763/10

Renewed Petition under 37 CFR 1.137(b) for Tokmulin et al., "Device for Treating Wafers with a Plasma Jet"

Serial No.: 08/860,763; Our Ref. No.: P-9701 ISK

and:

Continued Prosecution Application Request Transmittal for the Same

Comprising:

Renewed Petition Under 37 CFR 1.137(b)

Copy of "Paper No. 17," Decision on Petition, mailed 6/28/2001

Continued Prosecution Application (CPA) Request Transmittal

Preliminary Amendment

Check in the amount of \$710.00 for CPA filing fee

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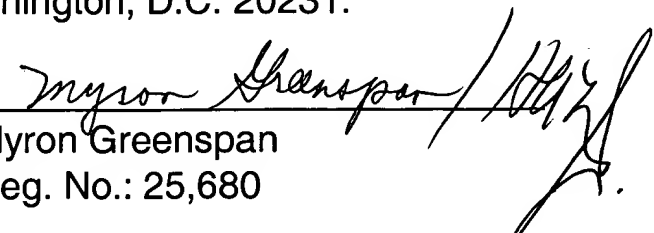
AUG 29 2001

EXPRESS MAIL CERTIFICATION UNDER 37 CFR 1.10 OFFICE OF PETITIONS

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Date of Deposit: August 27, 2001

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Myron Greenspan  
Reg. No.: 25,680

Dated: August 27, 2001

MG/as



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re the U.S. Patent Application of

Tokmulin et al.

Examiner: R. Zervignon

Serial No.: 08/860,763

Art Unit: 1763

Filed: September 9, 1998

Docket No.: P-9701 ISK

For: Device for Treating Planar Elements with a Plasma Jet

Attention: Office of Petitions, Box DAC  
Commissioner of Patents  
Washington, D.C. 20231

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OFFICE OF PETITIONS

RENEWED PETITION  
FOR REVIVAL OF AN APPLICATION  
FOR PATENT ABANDONED UNINTENTIONALLY  
UNDER 37 CFR 1.137(b)

SIR:

This Renewed Petition is in response to the Decision on Petition mailed June 28, 2001, which in turn was in response to our Petition to Revive of January 25, 2001.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and

U.S. Patent Application of Tokmulin et al.  
Serial No.: 08/860,763  
Art Unit: 1763

**Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained. Here, the expiration day is October 26, 2000, the day after October 25, 2000, which was the six months due date for response to the Final Rejection in this application, which was mailed April 25, 2000.**

**On January 25, 2001, applicant applied for revival of the above captioned application. Applicant enclosed a check for \$1,240.00 and an Amendment and Request for Reconsideration in reply to the Final Rejection mailed April 25, 2000. Applicant stated that since the application was filed after June 8, 1995, no terminal disclaimer is required. Applicant also made the following statement: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.**

**On July 2, 2001, applicant's attorneys of record received a Decision on Petition (Paper No. 17), mailed June 28, 2001, stating that the petition had been dismissed, but that the dismissal was not a final agency action within the meaning of 5 U.S.C. §704 (a copy of the Decision on Petition is attached). The Dismissal stated that the Petition previously filed had lacked "the required reply," and further stated that such reply must be in the form of either: a Notice of Appeal, an**

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Serial No.: 08/860,763  
Art Unit: 1763

Amendment that prima facie places the application in condition for allowance, or the filing of a continuing application or a Request for Continued Examination (RCE). The Amendment submitted with the Petition of January 25, 2001, had been determined not to place the application in condition for allowance, and therefore the application could not be revived.

Applicant herein petitions again for revival of the above captioned patent application. Applicant further states as follows:

1. A check in the amount of \$1,240.00 has already been sent, on January 25, 2001, to pay for the petition fee (37 CFR 1.17(m)). In the event that this amount is insufficient, please charge any remainder due to account no. 10-0100.

2. Applicant now replies to the Final Rejection mailed April 25, 2000, with a Continued Prosecution Application (CPA) Request Transmittal, and with appropriate filing fees in the amount of \$710.00.

If any other fees are due to the U.S. Patent Office, applicant respectfully requests that same be charged to our account no. 10-0100.

3. Applicant reiterates that since this application was filed after June 8, 1995, no terminal disclaimer is required.

Statement: The entire delay in filing the required reply from the due date for

U.S. Patent Application of Tokmulin et al.  
Serial No.: 08/860,763  
Art Unit: 1763

the required reply until the filing of a grantable petition under 37 CFR 1.137(b) has  
been unintentional.

Grant of this petition and return of the above-captioned patent application  
to examination is respectfully solicited.

Dated: August 27, 2001

Lackebach Siegel  
One Chase Road  
Scarsdale, NY 10583  
Telephone: 914 723 4300

MG/as

Respectfully submitted,

LACKENBACH SIEGEL  
Attorneys for Applicant(s)

By:

MYRON GREENSPAN  
Reg. No.: 25,680

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Encl.: Continued Prosecution Application Request Transmittal  
with check including \$710.00 filing fee

***Certificate of Deposit by Express Mail***

***I hereby certify that this correspondence is being filed by depositing same in an envelope marked Express Mail, addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, in a duly marked U.S. Postal Service drop box, with appropriate postage, on the following date:***

***Myron Greenspan***

***Attorney***

***Signature***

***August 27, 2001***

***Date***

***Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.***



UNITED STATES PATENT AND TRADEMARK OFFICE



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COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

7/2/2001/CLK

Paper No. 17

LACKENBACH SIEGEL & MARZULLO  
ORONSON & GREENSPAN  
ONE CHASE ROAD  
PENTHOUSE SUITE  
SCARSDALE, NY 10583

**COPY MAILED**

In re Application of  
Tokmulin et al.  
Application No. 03/860,763  
Filed: September 9, 1998  
Attorney Docket No. P-9701-ISK



DECISION ON PETITION

**BK-UP DOCKET**

7/2/01 CLK

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2001, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 25, 2000. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 26, 2000. A Notice of Abandonment was subsequently mailed on December 6, 2000.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie

places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. Although Petitioner submitted an amendment on January 25, 2001, the examiner has determined the amendment does not place the application in condition for allowance. Accordingly, this application cannot be revived.

Further Correspondence with respect to this matter should be addressed as follows:

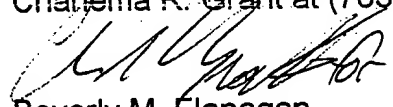
By mail: Commissioner for Patents  
Box DAC  
WASHINGTON, D.C. 20231

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

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Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



NE

#19

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the New CPA U.S. Patent Application of

TOKMULIN et al.

Examiner: Zervignon, R.

Serial No.: 08/860,763

Art Unit: 1763

Filing Date: September 9, 1998

Docket No.: P-9701 ISK

For: Device for Treating Planar Elements with a Plasma Jet

Assistant Commissioner of Patents  
Washington, D.C. 20231**RECEIVED**  
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OFFICE OF PETITIONS**PRELIMINARY AMENDMENT**

SIR:

Simultaneously with the filing of a Continued Prosecution Application (CPA) herewith, and in response to the final Office Action in the parent application, mailed April 25, 2000, please amend the above identified application as follows.

**IN THE CLAIMS:**

Please cancel claim 4, without prejudice, add claim 14 and amend claims 2 and 5 as follows.

Claim 2, line 7, change "A plasma" (first occurrence) to —said plasma—;

line 7, before "located" insert —being—.

14. A device for treating wafers with a plasma jet, comprising a plasma jet generator; gas supplying means; a set of holders for wafers to be treated, said holders having a drive for effecting angular displacement thereof and for facing a generator plasma jet; each of the holders being made in the form of a horizontal platform mounted for rotation about an axis passing through a geometric center thereof and perpendicular to a plane of said platform; said plasma jet and wafer holders being displaced with respect to each other and may be in or out of contact with each other, said plasma jet generator being located such that a plasma jet is directed upwardly in respect of a plane of said horizontal platforms of said wafer holders; cooling means associated with each horizontal platform in fluid flow communication with said gas supplying means and located such that resulting gas flows permit the positioning of the platform near a holder and improve cooling of individual areas over the wafer surfaces while avoiding the need to provide additional cooling of said plasma generator due to natural convection of the hot gases; a manipulator; storage devices for

the wafers to be treated; and a closed chamber having a gas exchange system with the wafer holders and a plasma jet generator located inside said chamber.

Claim 5, line 1, change "4" to -14-.

### **REMARKS**

This Amendment is responsive to the final Office Action in the parent application mailed April 25, 2000, and is being submitted as a Preliminary Amendment with the CPA patent application filed herewith. The Examiner's comments have been carefully considered.

Claims 2 and 6 have been rejected as being fully anticipated by the Gasworth patent for reasons set forth in paragraph 4 of the Office Action, while claim 3 has been rejected as being obvious on the basis of Gasworth in view of or when combined with the Japanese Publication JP4-124092 or Ikegaya, for reasons set forth in paragraph 6 of the Office Action. However, it is noted that claims 7-13 have been allowed while claims 4 and 5 have merely been objected to as being dependent on a

rejected claim. By this Amendment, allowable claim 4 has been canceled without prejudice and re-written as new claim 14. Claim 5, which depends from claim 14, should also be allowed with the allowance of claim 14.

The rejections of claim 2, 3 and 6 is respectfully traversed. Claim 2 includes structural limitations which are not disclosed or suggested in Gasworth. Thus, while the Examiner has outlined some of the language in claim 2 and has tried to draw a parallel with the Gasworth apparatus, it is clear that the Examiner has omitted some elements, features or functions recited in claim 2 which are not disclosed or suggested in the reference. To begin with, the present invention is for a device for treating wafers with a plasma jet. Gasworth on the other hand is for an apparatus for producing diamonds by chemical vapor deposition. The applications, therefore, are very different. Also, while the Examiner has stated that Gasworth discloses a "plasma jet generator", the Examiner has failed to state that claim 2 also requires the holders to be in the form of *horizontal* platforms; that the plasma jet generator be arranged to generate a plasma jet

directed *upwardly* and that the gas supplying means be located so that the resulting gas flow permits the positioning of the platform *near* a holder *while avoiding the need to provide additional cooling of the plasma generator due to natural convection of the hot gases*. Gasworth, on the other hand, uses a substrate 44 that is *inclined* to the horizontal and, in Fig. 1, is shown to be practically in a vertical plane. The diamond film is deposited on the substrate. Also, the plasma jet is directed *downwardly*, the exact opposite of the claimed language. Further, the gas flow in Gasworth appears to enter cooling plate 50 and is not "in fluid flow communication " with the gas supplying means to perform the function required in the last four lines of claim 2. In fact, the Examiner has pointed out that the gas supply means in Gasworth is shown at 18, 20 while the cooling means is shown at 52 in Fig.1. It would be evident to one skilled in the art that these two elements are not in fluid flow communication as contemplated by the invention and clearly recited in claim 2.

The Examiner's position in paragraph (vi) on page 4 of the Office

Action is respectfully traversed. Claim 2 recites specific structure to perform the desired functions, including the arrangement of the wafer 29 as shown in Fig. 4 during use. Clearly, this could not be achieved with Gasworth. It should be evident that simply flipping the Gasworth device "upside-down" as proposed by the Examiner would not result in the same structure and/or same function. Even after being flipped, Gasworth would still not result in a device that would permit the positioning of a wafer near the holder as a result of the dynamics of the gas flows, gravity, etc. As noted, in Gasworth the film 56 is not near but on the substrate 44 which is, in turn, mounted directly on the drive. However, clearly, the device needed to deposit a diamond film on a substrate is quite different than treating a wafer. It is respectfully submitted that the Gasworth device cannot practically be used for the treatment of wafers in accordance with the invention.

Claim 3 depends on claim 2 and should be allowed with the allowance thereof.

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Serial No.: 08/860,763  
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In view of the foregoing, it is respectfully requested that the rejection  
in the Office Action be reconsidered and withdrawn.

This application is now believed in condition for allowance. Early  
allowance and issuance is, accordingly, respectfully solicited.

Dated: August 27, 2001  
Lackenbach Siegel Marzullo  
One Chase Road  
Scarsdale, NY 10583  
Telephone: 914 723 4300  
MG/as

Respectfully submitted,  
LACKENBACH SIEGEL  
Attorneys for Applicant(s)

By:   
MYRON GREENSPAN  
Reg. No.: 25,680

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Myron Greenspan

Attorney

Signature

August 27, 2001

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*Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.*